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## Professional services procurement

- **44 Code of Federal Regulations (CFR):**
  - **13.36(c)(1):** All procurement . . . **full + open competition** . . .
  - **13.36(d)(3):** Identifies the **Request for Qualifications (RFQ)** process.
  - **13.36(f):** A **cost analysis** is required.

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## Professional services procurement

(Continued . . .)

- **44 CFR 13.36(d)(3)(v):** Procurement by **competitive proposals** . . .
  - Subgrantees may use competitive proposal procedures for **qualifications-based** procurement of **A/E professional services** . . .
    - **Competition** is based on **qualifications** (consistent with industry practice).
    - Subject to **fair + reasonable compensation**.

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## What are A/E professional services?

- **A/E design services.**
- **Project Management (PM) services** . . .
  - **Oversight** of design phase + construction administration phase.
- **Direct Administrative Costs (DAC)** – Certain eligible **DAC tasks are professional services**.
  - However, some DAC tasks are **not** professional services.

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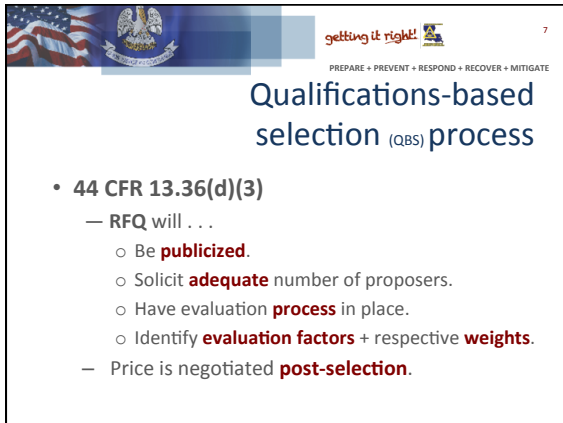
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## Qualifications-based selection (QBS) process

- 44 CFR 13.36(d)(3)
  - RFQ will . . .
    - Be **publicized**.
    - Solicit **adequate** number of proposers.
    - Have evaluation **process** in place.
    - Identify **evaluation factors** + respective **weights**.
  - Price is negotiated **post-selection**.

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## Cost analysis

- 44 CFR 13.36(f)
  - . . . Subgrantees must perform a **cost** or **price analysis** in connection with **every procurement** . . .
  - ✓ including “properly procured” **A/E professional services**

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## Types of A/E professional services for construction projects

- **Basic** design services
  - **Additional** services
- **Project Management (PM)**
- **Direct Administrative Cost (DAC)**




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## What are basic services?

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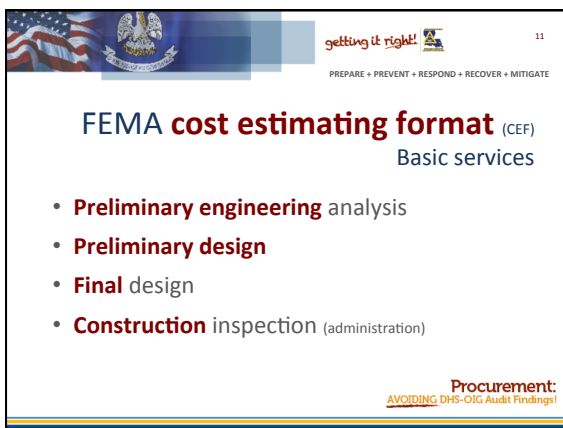
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### FEMA cost estimating format (CEF) Basic services

- Preliminary engineering analysis
- Preliminary design
- Final design
- Construction inspection (administration)

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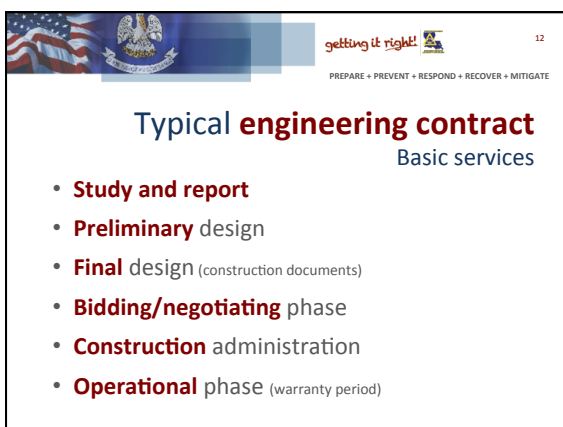
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### Typical engineering contract Basic services

- Study and report
- Preliminary design
- Final design (construction documents)
- Bidding/negotiating phase
- Construction administration
- Operational phase (warranty period)

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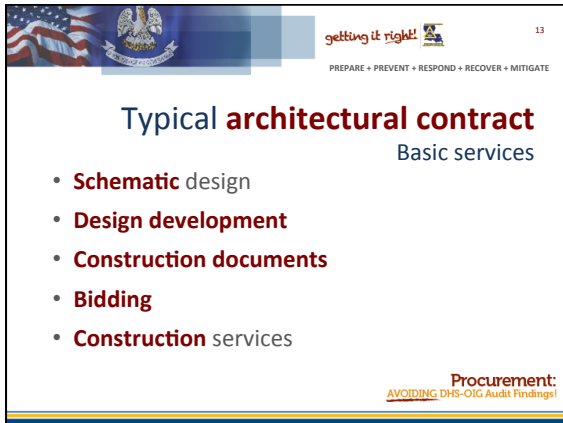
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## Typical architectural contract

Basic services

- **Schematic** design
- **Design development**
- **Construction documents**
- **Bidding**
- **Construction** services

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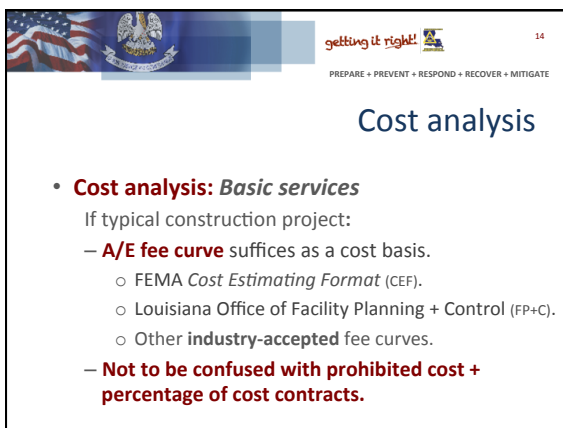
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## Cost analysis

- **Cost analysis: Basic services**

If typical construction project:

- **A/E fee curve** suffices as a cost basis.
  - FEMA *Cost Estimating Format* (CEF).
  - Louisiana Office of Facility Planning + Control (FP+C).
  - Other **industry-accepted** fee curves.
- **Not to be confused with prohibited cost + percentage of cost contracts.**

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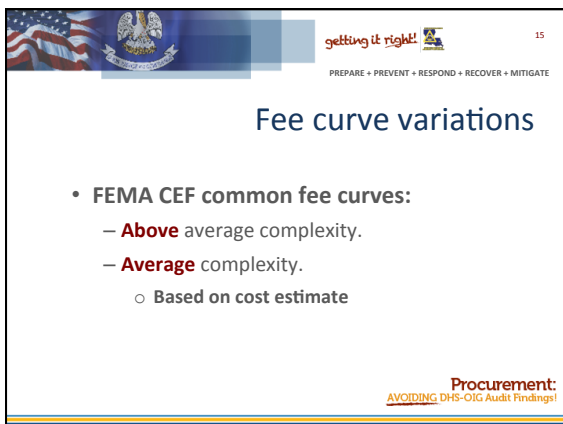
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## Fee curve variations

- **FEMA CEF common fee curves:**
  - **Above** average complexity.
  - **Average** complexity.
    - **Based on cost estimate**

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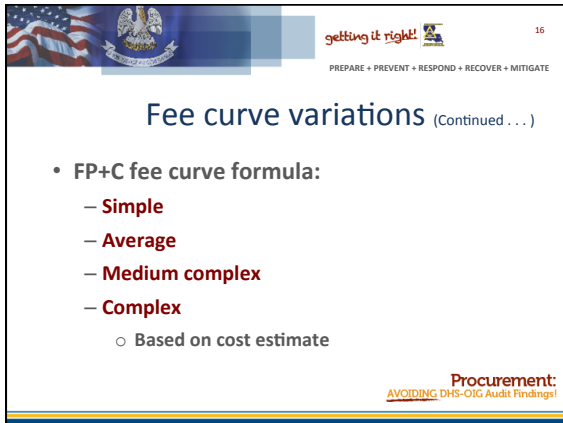
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### Fee curve variations (Continued...)

- FP+C fee curve formula:
  - Simple
  - Average
  - Medium complex
  - Complex
    - Based on cost estimate

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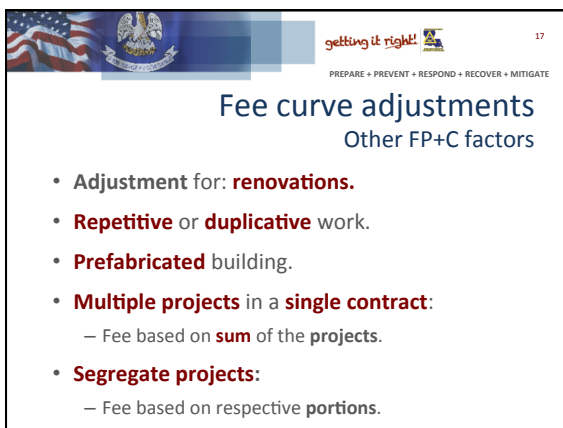
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### Fee curve adjustments Other FP+C factors

- Adjustment for: **renovations**.
- **Repetitive** or **duplicative** work.
- **Prefabricated** building.
- **Multiple projects** in a **single contract**:
  - Fee based on **sum** of the **projects**.
- **Segregate projects**:
  - Fee based on respective **portions**.

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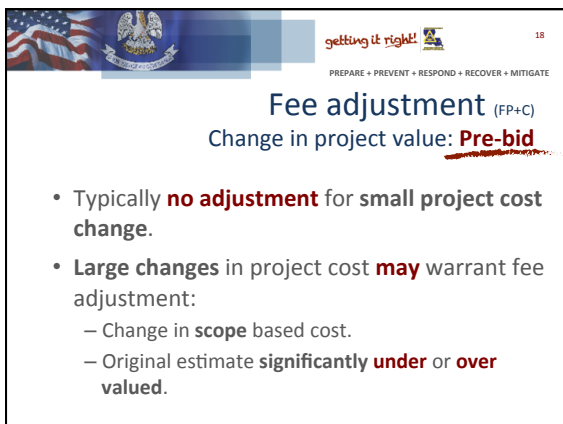
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### Fee adjustment (FP+C) Change in project value: **Pre-bid**

- Typically **no adjustment** for **small project cost change**.
- **Large changes** in project cost **may** warrant fee adjustment:
  - Change in **scope** based cost.
  - Original estimate **significantly under** or **over** valued.

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19

## Fee adjustment

### Change orders

- A/E fee adjustments **may** (or may not) be appropriate based on **changes in costs** during construction.
  - A/E fee adjustments on **construction** change orders may **not be eligible** for FEMA **reimbursement**.

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## Fee adjustment

### FP+C change order guidance

- Change orders resulting from **errors + omissions** . . .
  - Generally **do not** warrant fee adjustment.



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## What are A/E additional services?

- Examples include:
  - Geotechnical services**
  - Survey/layout**
  - Resident project representation**
  - Value engineering**
  - Modeling**
  - Etc.



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## Cost analysis

- **Additional** (design related) **A/E services**
  - Typically require **Applicant** cost analysis – **case-by-case**.

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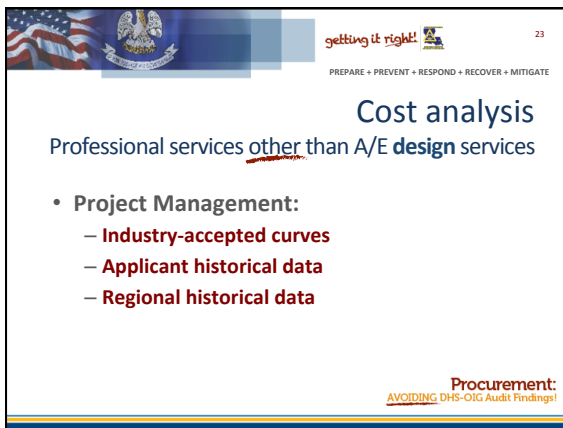
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## Cost analysis

Professional services other than A/E design services

- **Project Management:**
  - **Industry-accepted curves**
  - **Applicant historical data**
  - **Regional historical data**

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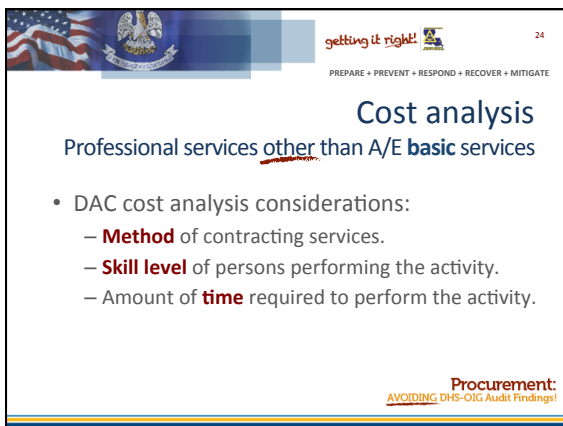
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## Cost analysis

Professional services other than A/E basic services

- **DAC cost analysis considerations:**
  - **Method** of contracting services.
  - **Skill level** of persons performing the activity.
  - Amount of **time** required to perform the activity.

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## Professional services Procurement

- Remember:
  - Full + open **competition**.
  - Compliant **procurement process**.
  - Demonstrate **cost reasonableness**.

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# Questions?

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Construction  
Change Orders  
80-20

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## Construction change orders

Change orders are a **basic + common** element of the **construction process**.

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## Construction change orders

FEMA: **Unique** requirement

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### TWO (2) APPROVALS REQUIRED



Applicant/Owner




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## Construction change orders (Continued . . . )

### Two (2) decisions

1. Applicant/Owner: Is the contractor owed **additional compensation** for the work?
2. FEMA: Is the work "eligible"?

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Applicant/owner  
Change order decision

Is the Contractor owed  
additional compensation?

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Applicant/owner  
Change order decision

- Design professionals held to a **legal standard** of exercising **ordinary care + reasonable judgment**.
- There is no such thing as a **perfect** set of **design drawings + specifications**.
- A certain number of **ambiguities + inconsistencies** are to be anticipated and are a **normal** part of the process.

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36

Applicant/owner  
Change order decision

- **Common causes** of change orders:
  - Unforeseen conditions.
  - Contractor substitutions.
  - Value engineering.
  - Design errors + omissions (may not be eligible).
  - Post-review agency comments (e.g. Fire Marshall).
  - **Owner-directed changes** (typically not eligible).

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### Applicant/owner Change order decision

**A change order is NOT:**

- Work performed by the contractor that:
  - Could be **reasonably** inferred from the contract documents.
    - Whether or not **specifically designated** in the contract documents or, from . . .
  - Prevailing **custom** or **trade** practices.

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### Applicant/owner Change order decision

- Contracts should include a **prescribed procedure** to **identify** + **process** change orders (time + cost).
- Change orders **must be** processed in a **timely manner** to **avoid construction delays**.
- An engineer/architect has **obligation** to **review** change order requests objectively.





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### Applicant/owner Change order decision

- **Design professional:**
  - Considers the facts.
  - Makes recommendation to Owner/Applicant.
  - Owner/Applicant **approves** or **denies**.

**✓ One decision down.**

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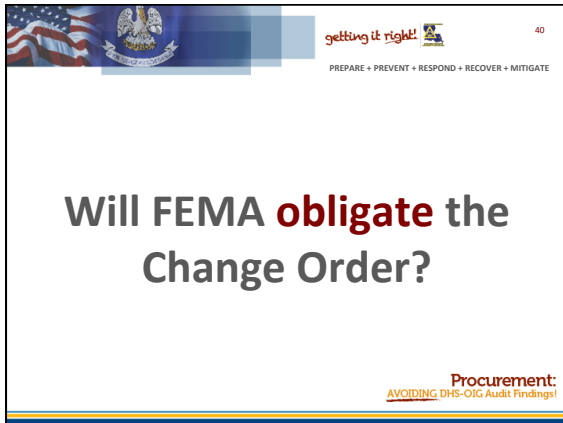
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## Will FEMA **obligate** the Change Order?

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## GOHSEP's proposed FEMA eligibility review documentation requirements

- Drawings + specifications **unique** to the changes.
  - Or other clear definition of scope of additional work.




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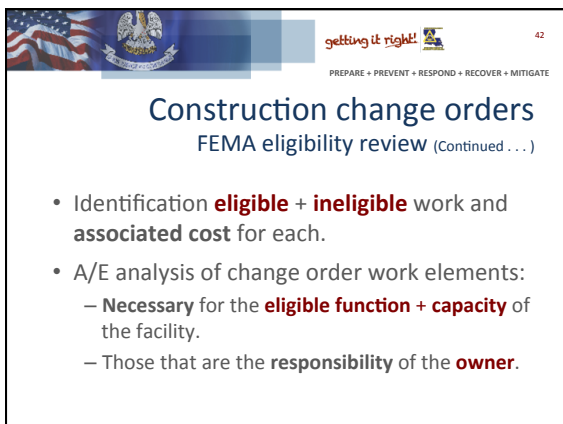
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## Construction change orders FEMA eligibility review (Continued...)

- Identification **eligible** + **ineligible** work and **associated cost** for each.
- A/E analysis of change order work elements:
  - Necessary for the **eligible function + capacity** of the facility.
  - Those that are the **responsibility** of the **owner**.

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## Change order

### Cost analysis

- **Cost analysis** is required (for every procurement).
- **Method + degree** of analysis is dependent on the **facts** surrounding the particular procurement situation . . .

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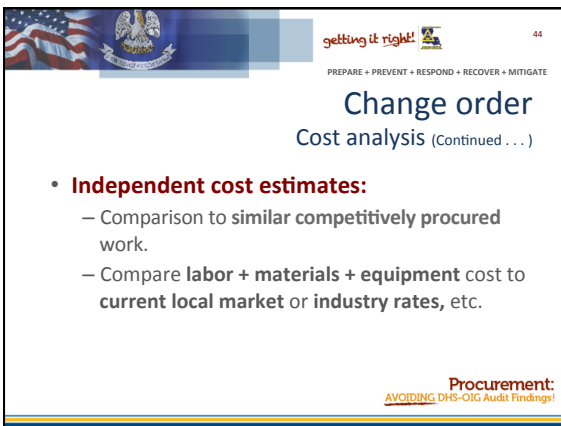
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## Change order

### Cost analysis (Continued . . .)

- **Independent cost estimates:**
  - Comparison to similar **competitively procured** work.
  - Compare **labor + materials + equipment** cost to **current local market or industry rates**, etc.

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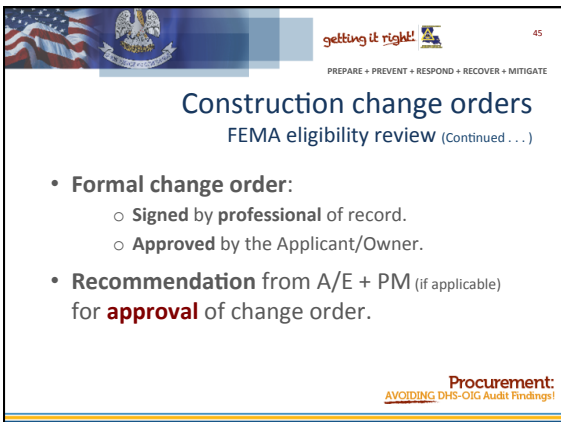
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## Construction change orders

### FEMA eligibility review (Continued . . .)

- **Formal change order:**
  - Signed by **professional** of record.
  - **Approved** by the Applicant/Owner.
- **Recommendation** from A/E + PM (if applicable) for **approval** of change order.

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**FEMA reviews  
documentation +  
determines eligibility.**

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**GOHSEP reimbursement process**

No reimbursement until **additional work is obligated.**

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**Key takeaways**

- **Two (2) approvals: Applicant/Owner + FEMA.**
- Documentation **requirements:**
  - **Typical** industry standard change order documentation.
  - Special FEMA PA documentation:
    - **Eligible/ineligible** work/cost segregation.
    - Documented **cost analysis.**
- **No payment** until **change orders** are obligated.

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# Questions?

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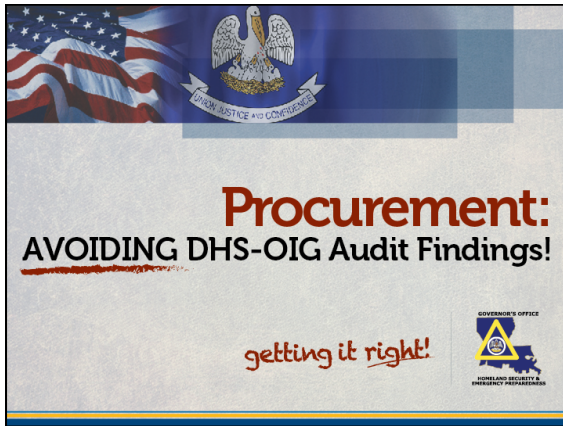
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**1.0 Project Monitoring**

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**Questions?**

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